IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.771 OF 2007

Motilal Gehrilal Dhakad (Jain) ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Shri A.K.Singh & V.K.Singh, advs. for the Applicant.
Shri Y.S.Shinde, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 9th March, 2007.

P.C.:

1. Heard Mr.A.K.Singh, the learned counsel for the applicant and Mr.Shinde, the learnd APP for the State. Perused the relevant documents.

2. The applicant seeks anticipatory bail in crime no.19 of 2007 registered with Kanjur Marg Police Station under Section 420 read with Section 34 of the I.P.C.

3. It appears that the present applicant and one Jeevanlal Kothari were joint tenants in a shop situated at Kanjur Village Road, Kanjurmarg. The complainant Hastimal Jain claims to have purchased the said shop from a landlady under a agreement for sale. According to the complainant after purchase of the shop, he was put in possession but he allowed Jeevanlal Kothari to continue as his tenant. When he wanted back the

possession of the same, the present applicant claimed to be in possession on the basis of certain documents executed by himself and Jeevanlal Kothari. Infact, those documents were forged and fabricated. On the basis of those documents, applicant filed a civil suit and also got the temporary injunction restraining Jeevanlal Kothari from interfering in his joint possession. The complainant Hastimal Jain also intervened and filed his reply opposing that application. The Civil Court granted temporary injunction in favour of the present applicant, which is still in force. Meanwhile, the complainant approached the police alleging that the documents on the basis of which the present applicant had secured temporary injunction from the Civil Court were forged and fabricated and he had cheated the Court as well as the complainant. Apprehending the arrest, applicant filed an application for anticipatory bail bearing no.1417-06 but that application was disposed off on the ground that no offence was registered. As police were threatening to arrest him, he again moved the application no.123 of 2007 for anticipatory bail. That application was disposed off with direction to the police to give 72 hours prior notice to the applicant before his arrest. On 17-2-2007 such notice was served on the applicant by Kanjurmarg Police station informing that the offence was

registered against him. Therefore, he filed third application for anticipatory bail before the Sessions Court. Initially some protection was given to the applicant with the direction to attend the police station but finally on 6-3-2007 that application came to be rejected. Therefore, the applicant has come to this Court.

4. On perusal of the record, it appears that even the complainant had admitted in his statement before the City Civil Court in the civil matter that the applicant, who was plaintiff in that matter, and Jeevanlal Kothari, who was defendant, were the joint tenants. He claims to have purchased the property in view of some agreement with Jeevanlal and with the landlady. According to the applicant, he has been always in possession of the property as tenant. It is conceded on behalf of the prosecution that there is nothing to show that the present applicant had executed any document in favour of the original landlady or the complainant Hastimal Jain or Jeevanlal surrendering or relinquishing his right as the joint tenant and possession over the shop. The Civil Court granted temporary injunction in favour of the applicant on the basis of documentary evidence placed before it. Whether that documentary evidence is false and fabricated or not may be decided by that

Court. Any how, the complainant has approached the police and the offence is registered. Taking into consideration the circumstances, custodial interrogation of the present applicant is not at all necessary. Therefore, I find that it is a fit case to grant anticipatory bail.

5. In the event of arrest in crime no.19 of 2007, the applicant be released on his executing P.R.Bond of Rs.5,000/- with surety in like amount with condition that he shall fully co-operate with the police in investigation and shall make himself available to the police as and when required for the purpose of interrogation or for production of documents.

6. Application stands disposed off.

(J.H.Bhatia,J.)